



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,685	06/11/2001	John A. Josko	85CE-00110	2016

7590 06/18/2007  
John S. Beulick  
Armstrong Teasdale LLP  
Suite 2600  
One Metropolitan Sq.  
St. Louis, MO 63102

EXAMINER
----------

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
----------	--------------

3692

MAIL DATE	DELIVERY MODE
-----------	---------------

06/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/878,685

Applicant(s)

JOSKO ET AL.

Examiner

Siegfried E. Chencinski

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-21, 26-32 and 49-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-21, 26-32 and 49-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 5, 2007 has been entered.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 2, 7, 11, 16, 26 & 30 are rejected** under 35 U.S.C. 103(a) as being disclosed by Regan in view of Dugan (US Patent 5,857,174).

**Re. Claim 1,** Regan discloses a system, for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to the business by an appraiser and values the asset securing the loan, said method comprising the steps of:

- a database for storing data including a plurality of appraisals submitted by a plurality of appraisers, wherein each appraisal describes and values a different asset used for securing a financing, wherein access to said database is restricted to users associated with the business (This is implicit and obvious in Regan, Col. 10, ll. 21-50);
- a database for storing appraisal bid request data including information describing at least one asset to be appraised, wherein access to said second database is

restricted to registered users (This is implicit and obvious in Regan, Col. 10, ll. 21-50);

- a system associated with the appraiser (This is implicit and obvious in Regan, Col. 10, ll. 21-50);
- a business server coupled to said first and second databases and said client system, said server programmed to:
  - a client system associated with each of the plurality of the appraisers (Col. 2, ll. 11-19; Col. 9, ll. 13-22; 39-47; implicit in col. 10, ll. 28-31).
  - retrieve data from said second database and display on the client system an appraisal bid request including information describing a specific asset to be used for securing a financing (Col. 10, ll. 28-35);
  - receive a response from each of the appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
  - prompt a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
  - Prompt the selected appraiser by displaying an appraisal template comprising a plurality of data fields on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
  - receive the appraisal template and store the received appraisal template within said first database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
  - transmit the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
  - determine whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the

appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and

- process the plurality of appraisals stored, within said first database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database (Col. 10, l. 27).

Regan does not explicitly disclose

- the explicit terminology of a first database and a second database.
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database.

However, a first database, a second database and a client system are implicit and obvious in Regan, Col. 10, ll. 21-50.

Also, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a system for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 2**, Regan does not explicitly disclose wherein said business server is further configured to:

- receive a sold amount for each asset stored within said first database after the asset is sold ;
- store each sold amount for each asset sold within said first database;
- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database; and
- determine an accuracy of an appraiser based on the comparison of the sold amount of an

asset to the appraised value of the asset.

However, Dugan discloses

- receiving a sold amount for each asset stored within said first database after the asset is sold (Col. 1, ll. 47-50);
- store each sold amount for each asset sold within said first database (implicit);
- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database (col. 1, ll. 47-50); and
- determine an accuracy of an appraiser based on the comparison of the sold amount of an

asset to the appraised value of the asset (The determining of the accuracy of an appraiser is implicit in the Dugan disclosure because the entire focus of Dugan's disclosure is on improving the appraiser's accuracy in making appraisals (Title; Col. 1, ll. 47-50; col. 2, ll. 1-7;). Col. 1, ll. 47-50 discloses the measuring of appraisal accuracy based on a comparison of an appraised amount to a sold amount. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have evaluated an appraiser's accuracy by comparing his appraised amount with the actual sales prices of comparable properties and to an actual sales price of the same unit were it to sell within the same window of time as the appraisal. However, such a timely sale is often not the case or even rare, since the prime determinants of sales price are local market supply and demand, and these determinants are constantly shifting due to the dynamic local seasonal patterns of supply and demand, and the effects of the national and regional economies which follow a different set of patterns and stimuli. This leaves the most comparable local neighborhood sales prices as the only practically available and obvious yardstick of appraisal accuracy. These, in turn, are the obvious yard sticks for measuring an appraiser's appraisal accuracy).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a system for obtaining an appraisal and measuring

the accuracy of an appraiser, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 7**, Regan discloses a system for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said system comprising:

- a database comprising data corresponding to a plurality of appraisals wherein each appraisal describes and values a different asset used for securing a financing, and appraisal bid request data including information describing at least one asset to be appraised (implicit in col. 10, ll. 21-50); and
- a client system associated with each of the plurality of appraisers (Col. 2, ll. 11-19; Col. 9, ll. 13-22; 39-47; implicit in col. 10, ll. 28-31); and
- a business server coupled to said database and said client system (Col. 10, ll. 21-50. The server is implicit), said server programmed to:
  - retrieve data from said database and display on the client system an appraisal bid request including information describing a specific asset to be used for securing a financing (Col. 10, ll. 28-35);
  - receive a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (col. 10, ll. 35-45);
  - prompt a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
  - prompt the selected appraiser by displaying an appraisal template comprising a plurality of data fields on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);

Art Unit: 3692

- receive the appraisal template and store the received appraisal template within said database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
- transmit the data received through the appraisal template to a plurality of users (Col. 12, ll. 9-14);
- determine whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and
- receive a sold amount for each asset stored within said database after the asset is sold (col. 10, ll. 42-45);
- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said database (Col. 10, ll. 27).

Regan does not explicitly disclose determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset. However, Dugan discloses determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (Col. 1, ll. 47-50. The determining of the accuracy of an appraiser is implicit in the Dugan disclosure).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a system for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 11,** Regan discloses a method for obtaining an appraisal for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to



the business by one of a plurality of appraisers and values the asset securing the loan, said method comprising the steps of:

- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);
- receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal, **wherein** the database stores data including a plurality of appraisals, **wherein** each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45);
- transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised (Col. 10, l. 27).

Art Unit: 3692

Regan does not explicitly disclose

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database.

However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a method for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 15**, Regan does not explicitly disclose wherein said business server is further configured to:

- receiving a sold amount for each asset stored within said first database after the asset is sold ;
- storing each sold amount for each asset sold within said first database;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database; and
- determining an accuracy of an appraiser based on the comparison of the sold amount of an

asset to the appraised value of the asset.

However, Dugan discloses

- receiving a sold amount for each asset stored within said first database after the asset is sold (Col. 1, ll. 47-50);
- storing each sold amount for each asset sold within said first database (implicit);
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database (col. 1, ll. 47-50); and
- determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (The determining of the

Art Unit: 3692

accuracy of an appraiser is implicit in the Dugan disclosure because the entire focus of Dugan's disclosure is on improving the appraiser's accuracy in making appraisals (Title; Col. 1, ll. 47-50; col. 2, ll. 1-7;). Col. 1, ll. 47-50 discloses the measuring of appraisal accuracy based on a comparison of an appraised amount to a sold amount. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have evaluated an appraiser's accuracy by comparing his appraised amount with the actual sales prices of comparable properties and to an actual sales price of the same unit were it to sell within the same window of time as the appraisal. However, that is often if not rarely the case, since market supply and demand is constantly shifting due to the dynamic seasonal patterns of supply and demand, and the effects of the economy which follow a different set of patterns and stimuli. This leaves the most comparable sales prices as the practically available and obvious yardstick of appraisal accuracy.).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a method for obtaining an appraisal and measuring the accuracy of an appraiser, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 16**, Regan discloses a method for obtaining an appraisal for soliciting, receiving and managing appraisals for a business en<sup>g</sup>aged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said method comprising the steps of:

- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);
- receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);

- prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal, wherein the database stores data including a plurality of appraisals, wherein each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45);
- transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65);
- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);
- receiving a response from the appraiser to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- prompting the appraiser by displaying a template on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);

Art Unit: 3692

- storing the inputted appraisal within a database based on the type of asset being appraised and the appraiser submitting the appraisal, wherein the database stores data including a plurality of appraisals submitted by a plurality of appraisers, wherein each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45); and
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised (Col. 10, l. 27).

Regan does not explicitly disclose

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database;
- receiving a sold amount for each asset stored within the database after the asset is sold;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within the database; and
- determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (This is obvious in the Dugan disclosure).

However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (Col. 1, ll. 47-50). Implicit in Dugan's disclosure are

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database;
- receiving a sold amount for each asset stored within the database after the asset is sold;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within the database; and

- determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (This is obvious in the Dugan disclosure).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 17**, Regan discloses a method wherein to display an appraisal template, the computer causes a web page to be displayed at an appraiser device, the web page comprising a plurality of data fields to be populated by the appraiser in order to complete the appraisal (LINKS – Col 1, l. 66; Col. 2, ll. 8-19; Col. 3, l. 21. An obvious use of links disclosed by Regan is to cause a web page to be displayed at an appraiser device merely by including the link in the e-mail which requests the appraisal, the web page comprising a plurality of fields to be populated by the appraiser in order to complete the appraisal – Col. 10, ll. 28-42). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan as appeared obvious to the ordinary practitioner of the art at the time in order to obtain an appraisal through a web page, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

**Re. Claim 19**, Regan discloses a method comprising operating the computer to search the database to retrieve a stored appraisal (Col. 10, l. 45. Searching for the stored appraisal record is implicit.).

**Re. Claim 20**, Regan discloses a method comprising operating the computer to search the database to retrieve data corresponding to a requested report (Searching to retrieve documents is implicit.).

**Re. Claim 21**, Regan discloses a method wherein the received data comprises an image of the appraised asset (Col. 7, ll. 57-59; Col. 10, l. 43).

**Re. Claims 26 & 30**, Regan discloses an apparatus and a computer-readable medium for soliciting, receiving and managing appraisals for a business engaged in providing

financing to a customer wherein the financing is secured by an asset, each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said apparatus comprising:

- means for storing data within a database including a plurality of appraisals, wherein each appraisal describes and values a different asset used for securing a financing, wherein access to said first database is restricted to users associated with the business (Implicit in col. 10, ll. 21-50; Col. 9, ll. 42-47; Col. 10, ll. 28-31, 35-45);
- means for retrieving data from the database and displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, ll. 21-39);
- means for receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- means for prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- means for prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
- means for transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- means for determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65);

Art Unit: 3692

- means for prompting the appraiser by displaying a template on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- means for storing the inputted appraisal within the database based on the type of asset being appraised and the appraiser submitting the appraisal (Col. 10, ll. 42-45); and
- means for processing the plurality of appraisals stored within the database (col. 10, l. 27).

Regan does not explicitly disclose valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database. However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50). Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing an apparatus and computer-readable medium for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**Re. Claim 29**, Regan does not explicitly disclose an Apparatus which comprises:

- means for receiving a sold amount for each asset stored within said first database after the asset is sold ;
- means for storing each sold amount for each asset sold within said first database;
- means for comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database; and
- means for determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset.

However, Dugan discloses

- means for receiving a sold amount for each asset stored within said first database after the asset is sold (Col. 1, ll. 47-50);



Art Unit: 3692

- means for storing each sold amount for each asset sold within said first database (implicit);
- means for comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database (col. 1, ll. 47-50); and
- means for determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset. (The determining of the accuracy of an appraiser is implicit in the Dugan disclosure because the entire focus of Dugan's disclosure is on improving the appraiser's accuracy in making appraisals (Title; Col. 1, ll. 47-50; col. 2, ll. 1-7;). Col. 1, ll. 47-50 discloses the measuring of appraisal accuracy based on a comparison of an appraised amount to a sold amount. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have evaluated an appraiser's accuracy by comparing his appraised amount with the actual sales prices of comparable properties and to an actual sales price of the same unit were it to sell within the same window of time as the appraisal. However, that is often if not rarely the case, since market supply and demand is constantly shifting due to the dynamic seasonal patterns of supply and demand, and the effects of the economy which follow a different set of patterns and stimuli. This leaves the most comparable sales prices as the practically available and obvious yardstick of appraisal accuracy.).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a method for obtaining an appraisal and measuring the accuracy of an appraiser, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

**3. Claims 3, 4, 8-10, 27, 28, 31 & 32 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claims 1, 7, 11, 26 and 30 above, and further in view of Official Notice.

**Re. Claims 3, 4, 8-10, 27, 28, 31 & 32**, neither Regan nor Dugan explicitly disclose:

**Re. Claim 3**, wherein said pages comprise ASP pages and HTML pages, and wherein XSL files are stored in said web server.

**Re. Claim 4**, comprising at least one client system comprising a browser, said browser configured to communicate with said web server.

**Re. Claim 8**, wherein said business server is further programmed to receive data corresponding to prospective users and provide the prospective user data to the database.

**Re. Claim 9**, comprising a web server coupled to said business server, said web server comprising a memory having a plurality of HTML pages stored therein.

**Re. Claim 10**, comprising a user terminal comprising a browser, said browser configured to communicate with said web server.

**Re. Claim 27**, an apparatus wherein said means for retrieving data comprises a web server coupled to a user terminal comprising a browser.

**Re. Claim 28**, an Apparatus wherein said means for prompting the appraiser comprises a web server coupled to a system server.

**Re. Claim 31**, a computer readable medium wherein said processing further comprises the steps of retrieve and update data in an appraisal application database, and retrieve and update data in a registered user database.

**Re. Claim 32**, a computer readable medium wherein said pages comprise ASP pages and HTML pages.

However, **re. claims 3, 4, 8-10, 31 & 32**, the examiner serves Official Notice that it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that ASP pages, HTML pages, XSL files, client systems, browsers, computer apparatus, storage media, multiple databases for storing various types of data, and servers (including web servers) and coupling of hardware including servers, all dedicated and programmed to perform various functions including those of retrieving

and updating data in the databases, to cause web pages to be displayed to authorized outside parties and to prompt such authorized participants to access such stored items as an appraisal application. All of these tools are well known to ordinary practitioners of the art who make use of available computer tools to produce more efficient methods of doing business. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the well known computer systems art for the purpose of operating a computer based system for the administration of activities such as appraisals, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

**4. Claims 12-14 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claim 11 above, and further in view of Official Notice and Zandi.

**Re. Claims 12-14**, neither Regan nor Dugan explicitly disclose a method of

**Re. Claims 12**, displaying on a client system an appraisal bid request comprises the steps of contacting a plurality of appraisers and requesting each appraiser to submit a bid to perform an appraisal.

**Re. Claim 13**, Regan discloses a method comprising the step of receiving a plurality of bids and selecting an appraiser based at least in part on the bid submitted by that appraiser.

**Re. Claim 14**, Regan discloses a method comprising the step of notifying the selected appraiser that the bid has been accepted and that the appraiser is to perform the appraisal.

However, **re. claims 12-14**, the examiner gives Official Notice that the method of notifying prospective vendor/bidders of a desire to receive bids for some specific aspect of their service(s) is a well known practice throughout commerce. For example, Zandi discloses a process of requesting bids from a plurality of bidders (Col. 10, ll. 3-7), receiving a plurality of bids in electronic form from at least some of the notified bidder candidates (Col. 10, l. 9), selecting one of the bids (Col. 9, ll. 9-12), and notifying the

selected bidder to perform the service in accordance with the bid (Col. 9, ll. 9-12). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan with the disclosure of Zandi in order to obtain an appraisal through a competitive bidding process, motivated by the desire to more conveniently enable someone to efficiently choose among bids the one that offers the most favorable terms (Zandi, Col. 1, ll. 7-12; Col. 3, ll. 27-29).

**5. Claim 18 is rejected** under 35 U.S.C. 103(a) as being disclosed by Regan in view of Dugan as applied to claim 16 above, and further in view of Broerman.

**Re. Claim 18**, neither Regan nor Dugan explicitly disclose a method wherein the user device comprises a wireless device and/or the appraisal is received from a wireless device. However, Broerman discloses a method wherein the user device comprises a wireless device (Use of a wireless device - Col. Col. 4, l. 36; Col. 5, ll. 3-4. Involvement of appraisers – Col. 12, l. 16). It would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the art of Broerman in order to make use of wireless devices in the communications process involving the obtaining of appraisals, motivated by a desire to a method that assists in the automated and efficient provision of services which make use of appraisals (Zandi, Col. 2, ll. 10-15).

**6. Claims 49, 51, 53, 55, 57 & 59 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claims 1, 7, 11, 16, 26 and 30 above, and further in view of the Microsoft Computer Dictionary (Third Ed., 1997, hereafter MS Dictionary).

**Re. Claims 49, 51, 53, 55, 57 & 59**, Regan's disclosure is discussed in the rejection of claim 1 above. Regan discloses that the Appraiser is presented with an appraisal screen on which the appraiser is asked to enter information on a standardized form, and that various forms are provided for a variety of property types (Col. 10, ll. 21-50). Regan does not explicitly disclose "appraisal templates" nor does he disclose "limiting conditions" in an appraisal report. Regan discloses that the format for the appraisal

screen can be generated using a conventional WINDOWS graphical user interface. MS Dictionary discloses the use of templates in the creation of reports on computer systems (template .... 5. In word processing .... a predesigned document that contains formatting and, in many cases, generic text). It would have been obvious to the ordinary practitioner at the time of Applicant's invention to have made use of writing of "limiting conditions" into appraisal reports. However, Dugan discloses the writing of appraisal "limiting conditions" into appraisal reports as part of a full outline of what an appraisal report should contain (Col. 11, l. 54 – Col. 12, l. 10; limiting conditions – Col. 11, l. 67). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the disclosure of MS Dictionary to include information about the contents of the appraisal template, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

**7. Claims 50, 52, 54, 56, 58 & 60 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan and MS Dictionary.

**Re. Claims 50, 52, 54, 56, 58 & 60,** Regan's disclosure is discussed in the rejection of claims 1, 49, 51, 53, 55, 57 & 59 above. Regan also discloses the appraisal as a task (Col. 10, l. 35). Regan does not explicitly disclose that "limiting conditions include tasks the appraiser performed and did not perform in completing the appraisal". The ordinary practitioner would have seen it as obvious that the many components of the appraiser's appraisal work can be described as tasks, or sub tasks of the overall task of performing and reporting an appraisal. Dugan discloses a substantial amount of detail to illustrate the contents of a standard appraisal report (Col. 11, l. 54 – Col. 12, l. 10). In this disclosure Dugan includes two special categories: (7) "all assumptions and limiting conditions that affect the analysis, opinions, and conclusions," (8) a summary of the information considered, appraisal procedures followed, and the reasoning which supports the analysis, opinions and conclusions", and "(10) explanation of whether any of the usual valuation approaches have been excluded and reasons for the exclusion". Col. 11, l. 66 – Col. 12, l. 7). The ordinary practitioner of the art at the time of Applicant's

invention would have seen it as obvious to have reduced these guidelines into a summary such as "limiting conditions include tasks the appraiser performed and did not perform in completing the appraisal". Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the disclosure of MS Dictionary to include information about the contents of the appraisal template and related appraisal tasks, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

### ***Response to Arguments***

8. Applicant's arguments filed April 5, 2007 with respect to claims 1-4, 7-21 and 26-32 have been fully considered but they are not persuasive.

**ARGUMENT A:** Applicant traverses the rejections of claims 1, 2, 7, 11, 16, 26 and 30. Applicant's argument traversing claim 1 is exemplary of Applicant's traversal arguments for each of these claims: "Neither Regan nor Dugan, considered alone or in combination, describes nor suggests a system for soliciting, receiving and managing appraisals as recited in Claim 1. Specifically, neither Regan nor Dugan, considered alone or in combination, describes nor suggests a system for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer as recited in Claim 1, wherein a user associated with the business is prompted to select one of the plurality of appraisers to provide an appraisal, the user transmits the data received through the appraisal template to a plurality of users associated with the business, and the user determines whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields. Rather, in contrast to the claimed invention, Regan describes a central repository of transaction information which can be accessed by a variety of participants who may be located over a wide geographic area in the recovery

Art Unit: 3692

process of a property unit such as a vehicle or other collateral. Dugan describes storing property data as a searchable record and comparing it with other sales for an ongoing indication of market values by each property, class, size, category, or other similar factors. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Regan in view of Dugan" (p. 15, l. 27 – p. 16, l. 14).

**RESPONSE:**

Applicant has failed to meet the requirement for rebutting a prima facie case of 35 USC 103 obviousness made by the examiner. Applicant merely has recited the claim beginning with the preamble as prose, followed by overviews of the two references, and then declared that claim 1 is patentable.

**1. MPEP 2112, Applicant's Burden of Proof:** "[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his [or her] claimed product. Whether the rejection is based on inherency' under 35 U.S.C. 102, on prima facie obviousness' under 35 U.S.C. 103, jointly or alternatively, the burden of proof is the same...[footnote omitted]." The burden of proof is similar to that required with respect to product-by-process claims. *In re Fitzgerald*, 619 F.2d 67, 70, 205 USPQ 594, 596 (CCPA 1980) (quoting *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433-34 (CCPA 1977)).

**2. MPEP 2145.I. states that "ARGUMENT DOES NOT REPLACE EVIDENCE WHERE EVIDENCE IS NECESSARY.** Attorney argument is not evidence unless it is an admission, in which case, an examiner may use the admission in making a rejection. See MPEP § 2129 <2100 2129.htm> and § 2144.03 <2100 2144 03.htm> for a discussion of admissions as prior art. The arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997) ("An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a *prima facie* case of obviousness."). See MPEP § 716.01(c) <0700 716 01 c.htm> for examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration.

Art Unit: 3692

3. The Federal Circuit Court reaffirmed the guidelines for a prima facie case of obviousness in a ruling in March, 2006, as follows:

"A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. . . . The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). However, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See Lee, 277 F.3d at 1343-46; Rouffett, 149 F.3d at 1355-59. This requirement is as much rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decisionmaking, as it is in § 103. See id. at 1344-45." In re Kahn, Slip Op. 04-1616, page 9 (Fed. Cir. Mar. 22, 2006).

In this instance, unlike in the combination of chemical or physical reactions where very specific phenomena are involved when combinations are made, the many specific narrow teachings in individual software designs can be taken in pieces according to one's need.

The examiner has met the standards reconfirmed by *In re Kahn* stated above. The examiner has properly pointed to a combination of explicit, implicit, suggested and obvious reasons, and to the knowledge of the ordinary practitioner in consideration of the problems to be solved, supported by articulated reasoning with some rational underpinning to support the legal conclusion of obviousness in making the rejections of claims 1, 2, 7, 11, 16, 26 and 30 under the 35 USC obviousness statute.

**ARGUMENT B:** Applicant repeats his traversal of the examiner's use of Official Notice in the last Office Action on the basis that, in according to MPEP 2144.03 regarding claims 3, 4, 8-10, 27, 28, 31 and 32, the Official Notice was "improper" (p. 25, ll. 7-8) because it should be rare in final rejections (p. 24, ll. 17-19) and that the examiner's use of Official Notice in the last Office Action was "unsupported by documentary evidence" (p. 24, ll. 19-20). The arguments presented from page 24, l. 6 through page 28, line 24 repeat the traversal of Official Notice for claims 3, 4, 8-10, 27, 28, 31 and 32.



**RESPONSE:** The Official Notice, as Applicant points out on p. 24, l. 26 – p. 25, l. 7, concerned various computer software and hardware tools which Applicant claimed in this listing of dependent claims. These computer tools and their use are instantly identifiable in the computer art. They are described in various computer dictionaries. Basically, Applicant has attempted to challenge the Examiner's taking of Official Notice without providing the required rationale for overcoming the Official Notice. Applicant has not provided the required adequate information or argument so that *on it's face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary.

Per MPEP 2144.03, "A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, the applicant is charged with rebutting the well known statement in the next reply after the Office Action in which the well known statement was made." Applicant has not submitted any rebuttal of the well known statements in this response nor in the response dated August 15, 2006, but has merely challenged the use of Official Notice of these well known limitations. In the paragraph in MPEP 2144.03 immediately preceding the above citing, reference is made to *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970) that "Furthermore, the applicant must be given the opportunity to challenge the correctness of such assertions and allegation." However, "bald statements such as 'the examiner has not provided proof that this element is well known' or 'applicant disagrees with the examiner's taking of Official Notice and hereby requests evidence in support thereof', are not adequate and do not shift the burden to the examiner to provide evidence in support of the Official Notice. Allowing such statements to challenge Official Notice would effectively destroy any incentive on the part of the examiner to use it in the process of establishing a rejection of notoriously well known facts" (*In re Boon*, 169 USPQ 231 (CCPA 1971)). Therefore, the Examiner's taking of Official Notice has been maintained.

Art Unit: 3692

**ARGUMENT C:** Applicant traverses the rejections of dependent claims 12-14 and 18 (p. 28, l. 25 – p. 31, l. 8).

**RESPONSE:** These traversals fail to rise to the requirement for traversals as is the case with the traversals of claims 1, 2, 7, 11, 16, 26 and 30, and the traversal of Official Notice in Argument B.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James A. Kramer, can be reached on (571) 272-6783.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks, Washington D.C. 20231*

or (571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

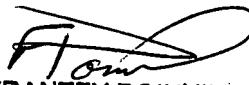
Application/Control Number: 09/878,685

Page 26

Art Unit: 3692

SEC

June 11, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
*Au 3692*